

In re Application of: John Bronskill et al.
Serial Number: 09/602,044

patent. For convenience of reference and comparison, claim 25 of the '549 patent and claims 1 and 19 of the present application are reproduced below.

Claim 25 of the '549 Patent

25. A method for drawing a paint stroke with a bitmap brush having pixels located at locations definable in a Cartesian coordinate system, the method comprising the steps of:

defining in parametric form a path of a guideline, the path having an arc-length and the guideline having a thickness;

scaling the bitmap brush as a function of the arc-length of the path and the thickness of the guideline;

defining in a Cartesian coordinate system the guideline points that comprise the guideline; and, for each guideline point defined, performing the further steps of:

determining those path points residing on the path that are closest to the guideline point; for each path point determined, performing the further steps of:

calculating an arc-length distance from an origin point on the path to the path point; calculating a normal distance from the guideline point to the path point; and using the arc-length distance and the normal distance to look-up a pixel value from the bitmap brush;

calculating the average of all looked-up pixel values; and

mapping the averaged pixel value to the Cartesian coordinate of the point to create the paint stroke.

Claims 1 and 19 of the Application

1. A method of drawing a brush stroke with a bitmap brush having pixels, the brush stroke rendered relative to a guideline, the guideline specifying an arbitrary path for the brush stroke, the method comprising the steps of:

determining a first polygon on the guideline;

determining a first segment in the bitmap brush corresponding to the first polygon on the guideline; and

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applying a first transformation to a bitmap image mapped in the first segment in the bitmap brush to generate a corresponding bitmap image in the first polygon on the guideline.

19. A computer-readable medium having computer-executable instructions for performing steps of a method for drawing a brush stroke with a bitmap brush having pixels, the brush stroke rendered relative to a guideline, the guideline specifying an arbitrary path for the brush stroke, the steps comprising:

determining a first polygon on the guideline; determining a first segment in the bitmap brush corresponding to the first polygon on the guideline; and

applying a first transformation to a bitmap image mapped in the first segment in the bitmap brush to generate a corresponding bitmap image in the first polygon on the guideline.

On November 5, 2003, a telephone interview was held between examiner Havan and applicants' representative, Kurt Chang. The examiner's courtesy of granting the interview is appreciated. As stated by Chang during the interview, the claims of this invention and those of the '549 patent are directed to different subject matter. In this regard, MPEP § 804 states the question to be asked in determining statutory double patenting is whether " . . . the same invention [is] being claimed twice?" The phrase "same invention" means "identical subject matter." *Id.* Applying this criterion, the claims in the application do NOT define the identical subject matter as defined by the claims in the '549 patent.

Each of claims 1 and 19 of the application concerns drawing a brush stroke with a bitmap brush image along a guideline by first defining polygons located on respective segments of the guideline, and then applying a transformation to the brush bitmap image to generate a corresponding image in each polygon on the guideline. This concept of defining polygons on segments of the guideline and applying image transformations in the polygons is not in the claims of the '549 patent. Since the polygon-building concept is not described in the claims of the '549 patent, the patent claims cannot "teach" the concept. Specifically, the application claims call for

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"determining a first polygon on the guideline" and the claim of the '549 patent do not have a comparable element.

Moreover, the final Office action's assertion that claim 25 of the '549 patent refers to a "polygon" by reciting "defining in parametric form a path of a guideline" finds no support in the patent's specification. The parametrically defined guideline path and a polygon defined over a segment of the guideline are two separate things. This can be seen, for instance, in FIG. 16 of the present application, which juxtaposes a guideline (the bold line on the top) and the polygons (shown in the lower portion of FIG. 16) defined over segments of the guideline. The parametric form of the guideline, such as a Bezier curve in an embodiment described in the specification (pp. 13-14), is not a polygon per se, and a guideline can be defined parametrically regardless of whether polygons can then be defined on segments of the guideline. Thus, claim 25 of the '549 does not call for "determining a first polygon on the guideline" as required by claims 1 and 19 of the present application.

Claim 25 of the '549 patent does not even share a single recited step with claims 1 and 19 of the application. As mentioned above, the ultimate test for determining whether statutory double patenting exists in this case is whether claim 25 of the '549 patent (or any of the patent's claims) define the SAME subject matter as defined by claims 1 and 19 of the application. The differences between claim 25 of the '549 patent and claims 1 and 19 of this application include at least defining the guideline in a parametric form and determining a polygon on the guideline. Claim 25 of the '549 patent also does not include any of the steps in claims 1 and 19 that follow and depend upon defining the guideline and determining a polygon on it. Conversely, claims 1 and 19 do not have any of the steps of claim 25 after the guideline is defined in parametric form.

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Because the other claims pending in this application all depend from either claims 1 or 19, they also claim a subject matter different from that of the claims of the '549 patent and should not have been rejected for statutory double patenting.

Since the claims of this application and the claims of the '549 patent do NOT define IDENTICAL subject matter, the statutory double patenting rejections must be withdrawn. The examiner is respectfully requested to withdraw the statutory double patenting rejections, the finality of the last Office action and then examine the claims in this application against the prior art.

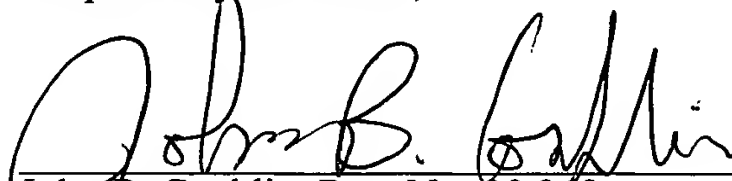
During the telephone interview as reflected in the "Examiner Interview Summary" form dated November 10, 2003, the examiner agreed to update the prior art search upon receiving applicants' response to the final Office Action. Applicants appreciate the examiner's willingness to reconsider the case.

Conclusion:

In view of the foregoing, this application is considered in good and proper form for allowance, and the examiner is respectfully requested to pass this application to issue.

If, in the opinion of the examiner, a telephone conference would expedite the prosecution of the subject application, the examiner is invited to call the undersigned attorney.

Respectfully submitted,



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